IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1854 of 1992
and
SPECIAL CIVIL APPLICATION NO. 1856 OF 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANJULABEN THAKORBHAI PATEL

Versus

STATE OF GUJARAT

MR BJ JADEJA for the petitioners.
MR MUKESH PATEL, ld.AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of Order: 03/04/2001

COMMON ORAL JUDGMENT

(Per : MR.JUSTICE D.H.WAGHELA)

By way of these two petitions under Article 226 of the Constitution, the petitioners have challenged the award of the Assistant Collector, Surat, in Land Acquisition Cases Nos.7/84 and 6/84. The petitioners have also sought the relief of declaring that the relevant impugned Notifications issued under Sections 4 and 6 of the Land Acquisition Act (the 'Act' for short) were invalid.

2. The relevant facts in brief are that the lands of the petitioners were acquired for constructing housing colony for the workers of a Company. The Notification under Section 4 of the Act were published in the Official Gazette on 24th January 1986 and thereafter published in the English and Gujarati daily and was also published at the conspicuous place in the locality on 10th Feb.1996. According to the impugned award in Land Acquisition Case No.7/84, the date of such publication was determined to be 12th February 1986 by an overwriting and correction in the award according to the petitioners, whereas in the Land Acquisition Case No.6/84, the date of publication was determined to be 26th February 1986, the date on which it was published in an English daily. Thereafter, the Notification under Section 6 were published in the Official Gazette on 10th February 1987 and the awards in both the cases were made on 2nd May 1988 and declared on 23rd January 1989. These dates as stated in the respective awards are not controverted by any averment in the petitions. Instead, the petitioners have relied upon the dates of publication of the Notifications in the Official Gazette.

3. The other contention by the learned Counsel for the petitioners was that the awards had not become final on the ground that the notice thereof was not served upon the petitioners and they came to know about the awards for the first time in February 1991 when they received the intimation for receiving the payment. Unfortunately, the respondents have not cared to file any affidavit-in-reply despite the service of Rule in the year 1992 and the learned AGP has, having no papers regarding these matters, expressed his inability to assist the Court.

4. We have gone through the impugned awards and found it to be true that there is some overwriting and correction in the important dates in the award in Land Acquisition Case No.7/84. The petitioners have not filed the certified true copies of the award and only the photo-copies of the copy of the awards are annexed with the petitions. However, the important fact that remains

is that the petitioners have made no assertion of fact or a clear averment in the petitions to suggest that the important dates mentioned in the awards are incorrect. Therefore, there is no reason to doubt the correctness of the respective dates and taking them as correct, it appears that the Notifications under Section 6 have been duly published within one year after the publication of the Notifications under Section 4 of the Act and that the awards are made within the prescribed time limit of two years. Therefore, we find no substance in the contentions of the petitioners regarding the Notifications and the awards not being within time.

5. The other contention regarding the receipt of notice of the awards by the petitioners has only to be stated to be rejected because the receipt of notice by the petitioners has no relation with the legality and finality of the awards.

6. In the facts and circumstances as above, we find no substance in these petitions and, therefore, they are rejected. Rule is discharged in each of these two petitions with no order as to costs.

3rd April 2001 (M.R. Calla, J.)

(D.H.Waghela, J.)

Sreeram.